

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Wayne L. Tyson, Complainant) Report of Hearing Officer
)
) against) Docket #FIC77-19
) 77-20
City of Stamford and the Charter) 77-25
Commission of the City of Stamford,) 77-26
Respondents)
) March 21, 1977

The above captioned matters were consolidated for hearing as a contested case on March 15, 1977, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies as defined by §1-18a(a), G.S.
2. By letters filed with this Commission on February 1, 2, 4 and 7, 1977, the complainant alleged that on January 20, 24, 26, 27 and 31, 1977 the respondent commission met and voted to go into executive session for a purpose not permitted under §1-18a(e), G.S.
3. By same letter, the complainant further alleged that a record of votes taken upon issues before the respondent commission at the aforesaid gatherings were not made available for public inspection within the time required by §1-21, G.S.
4. A quorum of the respondent commission met on January 20, 24, 26, 27 and 31, 1977 to discuss matters over which the respondent commission has jurisdiction, supervision and control.
5. It is found that the aforesaid gatherings of the respondent commission were meetings of a public agency within the meaning of §1-18a(b), G.S.
6. The respondent commission, construing §1-18a(e) together with §1-19(b)(1) of the General Statutes, contends that its executive sessions concerned discussions relating to preliminary drafts or notes within the meaning of §1-19(b)(1), G.S.
7. The respondent commission further contends that §1-18a(e)(5) protects its discussions thereon and not the preliminary draft not otherwise required to be disclosed within the meaning of §1-19(b)(1), G.S.

8. §1-18a(e)(5) permits discussion of only those matters which would result in the disclosure of public records described in subsection (b) of §1-19, G.S.

9. It is found that there were a plethora of matters discussed in the aforesaid executive session which would not result in the disclosure of public records described in §1-19a(b)(1), within the meaning of §1-18a(e)(5), G.S. For example, the respondent commission discussed letters received from the public and representatives of the public, which letters contained suggestions relating to possible revisions to the town charter. These letters are clearly not preliminary drafts or notes within the meaning of §1-19(b)(1), G.S.

10. It is therefore concluded that the respondent commission met in executive session on the aforesaid dates for purposes that were not permitted under §1-18(a)(e), G.S.

11. The respondent commission moved its business through informal consensus at each of its meetings above. It is found that such informal consensus constitutes a vote upon an issue within the meaning of §1-21, G.S.

12. The movement of business by consensus was not made available for public inspection in a record within 48 hours as required by §1-21, G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Henceforth, the respondent commission shall meet in executive session only for those purposes stated in §1-18a(e), G.S.

2. The respondent commission shall hereafter make available in the minutes of its meetings a record of how each commission member votes on each and every issue determined by the consensus of the group in its informal discussions.

Judith Lahey

Commissioner Judith Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on
April 13, 1977.

Louis J. Tapogna

Louis J. Tapogna, as Clerk of the
Freedom of Information Commission